IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

FRIDAY, THE 9TH MARCH 2007 / 18TH PHALGUNA 1928

WP(C).No. 6689 of 2007(U)

PETITIONER:

M.A.MURALEEDHARAN, P.A.TO EXECUTIVE
ENGINEER, MINOR IRRIGATION DIVISION,
THRISSUR.

BY ADV. DR.K.P.SATHEESAN
SRI.K.K.GOPINATHAN NAIR

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
THE PRINCIPAL SECRETARY, WATER RESOURCES
(A) DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE CHIEF ENGINEER,
IRRIGATION AND ADMINISTRATION,
THIRUVANANTHAPURAM.

3. R.UNNIKRISHNAN, ASSISTANT EXECUTIVE
ENGINEER, SREE SIVAM, NRA GARDENS NO.2,
MANAYILKULANGARA, KOLLAM-12.

R1 & R2 BY GOVT. PLEADER MR. BIJOY CHANDRAN.
R3 BY ADV. SRI.P.B.SURESH KUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K. DENESAN, J.

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W.P.(C) No. 6689 OF 2007 U
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Dated this the 9th March, 2007

J U D G M E N T

The petitioner belongs to the cadre of Asst. Executive Engineer. Respondent No. 3 is also in the same cadre. The petitioner commenced service as a diploma holder in Engineering. He acquired degree in Engineering.

2. The disputed issue is whether the petitioner is entitled to be considered for promotion to the post of Executive Engineer in the diploma or the degree quota. The petitioner was included in the degree quota, but subsequently based on the objection raised by the 3rd respondent, it is proposed that the petitioner's right for promotion need be considered only in the diploma quota. The Chief Engineer has passed Ext. P15 proceedings on 12-1-2007 calling for objections from aggrieved persons before the above proposal is confirmed. The petitioner also has filed an objection (Ext. P16).

3. Counsel for the 3rd respondent submits that the objection called for is intended to afford opportunity

to other members of the service, and therefore, the petitioner cannot ask for one more opportunity. It has been concluded by the Chief Engineer as per Ext. P15 that the petitioner is not eligible to be considered for promotion under the degree quota. It is also contended that the petitioner was heard and thereafter only Ext. P15 proposal has been made.

4. I have heard both sides. Since the matter has not been finalised after affording opportunity to all concerned, there is nothing improper if the petitioner is also afforded an opportunity along with others at that stage also by the 2nd respondent. If the petitioner feels that Ext. P15 will be confirmed and he may become aggrieved by the final decision, he has got the right to approach the 1st respondent as well. But that remedy need be invoked only after his objection as stated in Ext. P16 is also considered by the 2nd respondent and final decision taken either affirming Ext. P15 or reverting back to the old position.

5. In the circumstances, I am inclined to dispose of this writ petition directing the 2nd respondent to

consider Ext. P16 also before finalising Ext. P15. Needless to state that other officers who have filed their objections against Ext. P15 shall also be heard and that the 3rd respondent shall be given a similar opportunity.

6. The above exercise shall be completed within six weeks from the date of receipt of a copy of the judgment.

The petitioner is free to produce a copy of this judgment along with a copy of the writ petition before the 2nd respondent for information and action.

K.K. DENESAN
JUDGE

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